

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

STATE OF ALABAMA:
COUNTY OF BALDWIN:

This DECLARATION made on the date hereinafter set forth by Build America Properties Inc., hereinafter to as "DEVELOPER".

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:
2003 December -29 11:16AM
Instrument Number 789010 Pages 14
Recording 42.68 Mortgage
Deed Min Tax
Index 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

RECITALS

- (1) DEVELOPER is the owner of that certain real property located in Baldwin County, Alabama, which was previously know as Parcel 47-09-32-0-000-069.000, called Robinson Branch Subdivision, together with all improvements and appurtenances, sometimes hereinafter referred to as the "PROPERTY". A homeowners association will be formed (hereinafter referred to as the "ASSOCIATION") for the purpose of maintaining the easement, and enforcing restrictions.
- (2) The ASSOCIATION and the PROPERTY shall be subject to the terms and conditions of this DECLARATION.

NOW, THEREFORE, DEVELOPER hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the PROPERTY and be binding on all parties having any right, title or interest in the PROPERTY or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1 "Association" shall mean and refer to Robinson Branch Property Owners Association.

Section 1.2 "Board" shall mean and refer to the Board of Directors of the ASSOCIATION.

Section 1.3 "EASEMENT" shall mean and refer to the 10' Utility Easement.

Section 1.4 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, which shall be recorded in the probate Records of Baldwin County, Alabama, as the same may from time to time be supplemented or amended in the manner described herein.

Section 1.5 "Deed" shall mean and refer to any deed, assignment, lease, or other instrument conveying fee simple title or a leasehold interest in any part of the PROPERTY.

Section 1.6 "Developer" shall mean and refer to Build America Properties Inc, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Developer for the purpose of development.

Section 1.7 "Lot" shall mean and refer to any plot or parcel of land described by Deed at time of conveyance.

Section 1.8 "Member" shall mean and refer to every person or entity that holds membership in the ASSOCIATION.

Section 1.9 "Mortgage" shall mean a mortgage in the conventional sense.

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Section 1.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the PROPERTY, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.11 "Property" shall mean and refer to that certain real property hereinbefore described.

ARTICLE II

MUTUALITY OF BENEFIT AND OBLIGATION

This DECLARATION is made for the mutual and reciprocal benefit of each and every part of the PROPERTY and is intended to create mutual, equitable servitude's upon the PROPERTY, to create reciprocal rights between the respective OWNERS and future OWNERS of the PROPERTY; and to create a privity of contract and estate between the grantees of the PROPERTY, their heirs, successors and assigns. The PROPERTY shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all the terms and provisions of this DECLARATION including, but not limited to, the lien provisions set forth herein.

ARTICLE III

ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

SECTION 3.1 Architectural Committee. The Architectural Committee (herein the "ARCHITECTURAL COMMITTEE") shall be composed of at least three (but not more than five) individuals designated and redesignated from time to time (i) by the DEVELOPER until control of the ARCHITECTURAL COMMITTEE is specifically delegated by the DEVELOPER to the ASSOCIATION, and (ii) by the ASSOCIATION after delegation of such control. Delegation of control of the ARCHITECTURAL COMMITTEE from the DEVELOPER to the ASSOCIATION shall be evidenced by an instrument signed by the DEVELOPER and filed for record in the Probate Records of Baldwin County, Alabama.

Except as hereinafter provided, the affirmative vote of a majority of the MEMBERSHIP of the ARCHITECTURAL COMMITTEE shall be required in order to approve any plans and specifications submitted under this ARTICLE III.

SECTION 3.2 Approval Required. No structure (including wharves, piers, bulkheads, or jetties) shall be commenced, erected, placed, moved on to or permitted to remain on any LOT, nor shall any existing structure upon any LOT be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any LOT, unless plans- and specifications (including a description of any proposed new use) thereof shall have been submitted to and approved in writing by the ARCHITECTURAL COMMITTEE. Such plans and specifications shall be in such form and shall contain such information as may be required by the ARCHITECTURAL COMMITTEE, including: (i) architectural plans, elevations and specifications showing the nature, kind, exterior color schemes, shape, height and materials of all structures proposed for the LOT; (ii) a site plan of the LOT showing the location with respect to the particular LOT (including proposed front, rear and side setbacks and free spaces, if any are proposed) of all structures, the location thereof with reference to structures on adjoining portions of the PROPERTY, and the number and location of all parking spaces and driveways on the LOT; (iii) a grading plan for the particular LOT; (iv) a drainage plan; (v) a plan for landscaping; and (vi) Corp of Engineers or other appropriate governmental permits. All of said plans shall address the matters set forth in ARTICLE IV, as applicable.

SECTION 3.3 Basis for Disapproval of Plans. The ARCHITECTURAL COMMITTEE shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- A. Failure of such plans or specifications to comply with this DECLARATION;
- B. Failure to include information in such plans and specifications as may have been reasonably requested;
- C. Objection to the exterior design, appearance or materials of any proposed structure;
- D. Incompatibility of any proposed structure or use with existing structures or uses upon other LOTS in the vicinity;
- E. Objections to the location of any proposed structure upon any LOT or with reference to other LOTS in the vicinity;
- F. Objection to the site plan, grading plan, drainage plan or landscaping plan for any LOT;
- G. Objection to the color scheme, finish, proportions, style of architecture, materials, height, bulk, or appropriateness of any proposed structure;
- H. Objections to parking areas proposed for any LOT on the grounds of (i) incompatibility to proposed uses and structures on such LOT or (ii) the insufficiency of the size of parking areas in relation to the proposed use of the LOT;
- I. Failure of plans to take into consideration the particular topography, vegetative characteristics, natural environment and storm water runoff of the LOT; or
- J. Any other matter which, in the judgment of the ARCHITECTURAL COMMITTEE would render the proposed structure, structures or uses inharmonious with the general plan of improvement of the PROPERTY or with structures or uses located upon other lots in the vicinity.

Approval of any such plans shall terminate and be rendered void if construction is not begun within six (6) months after such approval unless such six (6) month period is extended by agreement with the ARCHITECTURAL COMMITTEE in which event the extended time period shall be applicable.

In any case where the ARCHITECTURAL COMMITTEE shall disapprove any plans and specifications submitted hereunder, or shall approve the same only modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the ground upon which such action was based. In any such case the ARCHITECTURAL COMMITTEE shall, if requested, make reasonable efforts to assist and advise the applicant in order that as acceptable proposal can be prepared and submitted for approval.

SCOPE OF REVIEW BY THE ARCHITECTURAL COMMITTEE IS LIMITED TO APPEARANCE ONLY AND DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS.

SECTION 3.4 Retention of Copy of Plans. Upon approval by the ARCHITECTURAL COMMITTEE of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the ARCHITECTURAL COMMITTEE, and shall be retained for a period of no more than six (6) months after completion of the improvement, and a copy of such plans and specifications hearing such approval, in writing, shall be returned to the applicant submitting the same.

SECTION 3.5 Rules of Architectural Committee; Effect of Approval and Disapproval; Time for Approval. The ARCHITECTURAL COMMITTEE may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on LOTS, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the ARCHITECTURAL COMMITTEE at any time, and no inclusion in, omission from or amendment of any such rule or statement shall be deemed to bind the ARCHITECTURAL COMMITTEE to approve or disapprove any feature or matter subject to approval, or to waive

the exercise of the ARCHITECTURAL COMMITTEE'S discretion as to any such matter but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any LOT of any plans or specifications shall not be deemed a waiver of the ARCHITECTURAL COMMITTEE'S right, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other LOT or LOTS. Approval of any such plans and specifications relating to any LOT, however, shall be final as to that LOT and such approval may not be revoked or rescinded thereafter, provided, (i) that the structure or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in this DECLARATION, and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all structures on and uses of the LOT in question.

In the event that the ARCHITECTURAL COMMITTEE fails to approve, disapprove, or approve conditionally any plans and specifications as herein provided within thirty (30) days after proper submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

SECTION 3.6 Certificate of Compliance. Upon completion of the construction or alteration of any structure in accordance with plans and specifications approved by the ARCHITECTURAL COMMITTEE, the ARCHITECTURAL COMMITTEE shall, upon written request of the owner thereof, issue a certificate of compliance in form suitable for recordation, identifying such structure and the LOT on which such structure is placed, and stating that the plans and specifications, the location of such structure and the use or uses to be conducted thereon have been approved and that such structure complies with the requirements of the ARCHITECTURAL COMMITTEE. Preparation and recording of such certificate shall be at the expense of such owner. Any certificate of compliance issued in accordance with the provisions of this SECTION 3.6 shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrance in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that, as of the date of the certificate, all structures on the LOT, and the use or uses described therein comply with all the requirements of this ARTICLE III, and with all other requirements of this DECLARATION as to which the ARCHITECTURAL COMMITTEE exercises any discretionary or interpretive powers.

SECTION 3.7 Inspection and Testing Rights. Any agent of DEVELOPER, ASSOCIATION or the ARCHITECTURAL COMMITTEE may at any reasonable time or times enter upon and inspect an LOT and any improvements thereon for the purpose of ascertaining whether the maintenance of such LOT and the maintenance, construction, or alteration of the structures thereon are in compliance with the provisions hereof; and neither DEVELOPER, ASSOCIATION nor the ARCHITECTURAL COMMITTEE nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. Without limitation upon other inspection rights, in order to implement inspection and testing of sanitary sewer lines, each owner agrees to notify the ARCHITECTURAL COMMITTEE prior to its installation of the sanitary sewer service lines and to permit such inspection and testing thereof by the ARCHITECTURAL COMMITTEE both before and after backfill as is required by the ARCHITECTURAL COMMITTEE. Any such inspection shall be for the sole purpose of determining compliance with this DECLARATION, and neither the making of any such inspection, nor the failure to make any such inspection, shall be relied upon by the owner of a LOT or any third persons or entities for any purpose whatsoever; nor shall any such inspection obligate the DEVELOPER, the ASSOCIATION or the ARCHITECTURAL COMMITTEE to take any particular action based on the inspection.

SECTION 3.8 Waiver of Liability. Neither the ARCHITECTURAL COMMITTEE nor any architect nor agent thereof, nor the ASSOCIATION, nor the DEVELOPER, nor any agent or employee of the foregoing, shall be responsible in any way for any failure of structures to comply with requirements of this DECLARATION, although a certificate of compliance has been issued, nor for any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, and all persons relying thereon or benefiting therefrom agree not to sue or claim against the entities and persons referred to in this SECTION 3.8 for any cause arising out of the matters referred to in this SECTION 3.8 and further agree to and do hereby release said entities and persons for any and every such cause.

ARTICLE IV

LAWS AND SPECIFIC RESTRICTIONS

This DECLARATION shall not be taken as permitting any action or thing prohibited by the applicable laws, or the laws, rules or regulations of any governmental authority, or by specific covenants or restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, leases, covenants, restrictions or this DECLARATION shall be taken to govern and control.

ARTICLE V

SITE DEVELOPMENT

SECTION 5.1 Site to be staked Prior to Tree Cutting. After the plan for the structure is approved, the site of the structure must be staked out and such site approved by the ARCHITECTURAL COMMITTEE before tree cutting is done. Existing vegetation shall be saved whenever it is practical to do so. All areas on site and outside the areas of disturbance shall be "corded off" with high visibility surveyor's flagging tape and no vegetation shall be removed from the corded areas and no materials may be stored over the roots of this vegetation without prior approval of the ARCHITECTURAL COMMITTEE. Removal of "underbrush" from the corded areas is expressly prohibited except on ARCHITECTURAL COMMITTEE approval. No tree may be cut or removed without consent of the ARCHITECTURAL COMMITTEE until the building plans, site plans, and site staking are approved by the ARCHITECTURAL COMMITTEE.

SECTION 5.2 Erosion Control, Wetlands, and Flood Prone Area. Erosion control measures shall be taken by the owner of a LOT, or his contractors, to protect adjacent properties during construction on such LOT and thereafter until the soil is stabilized on the LOT. This may be accomplished by the use of temporary retention ponds, silt fencing, or other protective measures intended to intercept and filter the excess storm water runoff from the LOT. All erosion control measures, including slope stabilization, must be specified on the grading plan and must be approved by the ARCHITECTURAL COMMITTEE prior to commencement of grading activities.

Any storm water retention ponds created during construction on a LOT shall not remain as permanent ponds after completion of construction unless so provided in the grading, site and landscaping plans submitted to and approved by the ARCHITECTURAL COMMITTEE.

A portion of the property located within the Property has been identified as "wetlands" pursuant to Federal law and regulation. No "wetlands" shall be utilized or otherwise developed unless in accordance with all Federal, state, and local laws and regulation, and with the approval of the ARCHITECTURAL COMMITTEE. Under no circumstances shall any filling of the wetlands directly adjacent to Fish River be allowed. The property is located within an area designated as "flood prone". All improvements must be constructed on the property in accordance with state and Federal laws and regulations pertaining to flood prone areas.

SECTION 5.3 Utility Lines and Appurtenances. All gas, water, sewer, telephone, television cable and electrical feeder and service lines shall be installed in accordance with the requirements of the utility provider unless otherwise approved by the ARCHITECTURAL COMMITTEE. Provided, however, all gas, water, sewer, telephone, television cable and electrical feeder and service lines located on any LOT (not including the easement) shall be installed as underground service unless otherwise approved by the ARCHITECTURAL COMMITTEE. The foregoing utility and service lines on the easement need not be underground. All power poles, transformer boxes, meters or other such fixtures shall be adequately screened with plants or other materials approved by the ARCHITECTURAL COMMITTEE; provided that no planting or screening devices shall be placed so as to obstruct the normal servicing of either transformers, telephone pedestals, or other utility hardware. To the extent of the interest of the owner of a LOT, the owner of a LOT (not including easements) will not erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles,

or overhead facilities of any kind for electrical, television cable or telephone service on said real estate (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the particular area) without the prior written consent of the ARCHITECTURAL COMMITTEE. Nothing herein shall be construed to prohibit overhead street lighting or ornamental yard lighting, where serviced by underground wires or cables. Where underground electric service is to be installed, in order to permit installation of underground electric service to each LOT for the mutual benefit of all owners therein, no owner of any such LOT will commence construction of any improvement on any such LOT until such owner (1) notifies the electric utility that such construction is proposed, (2) grants in writing to the electric utility such rights and easements as the electric utility requires in connection with its construction, operation, maintenance and removal of underground service lateral on such LOT, and (3) otherwise complies with the Rules and Regulations for Underground Residential Distribution on file with and approved by the Alabama Public Service Commission. If required by the electric utility, such electric utility, its successors and assigns, may retain title to the underground service lateral and outdoor metering trough, the house power box (exclusive of circuit breakers) serving each said house, and said service entrance facilities provided by such utility will not in any way be considered a fixture or fixtures and thereby a part of said real estate, but will remain personal property belonging to such utility, its successors and assigns, in accordance with applicable Rules and Regulations filed with and approved by the Alabama Public Service Commission.

SECTION 5.4 Connection Points for Utility Service Lines. To the extent of the interests of the owner of each LOT, each owner agrees to connect utility service lines (including, but not limited to, gas, water, sewer, television cable and electricity) at points designated by ARCHITECTURAL COMMITTEE.

SECTION 5.5 Sanitary Sewer Service Lines. The material for sanitary sewer systems must be approved by the ARCHITECTURAL COMMITTEE.

SECTION 5.6 Landscaping. The landscape plan must be approved by the ARCHITECTURAL COMMITTEE prior to any site disturbance. The landscape plan shall indicate the proposed type, location, size and quantity of all plant materials to be planted on the LOT. The OWNER must faithfully execute the landscape plan as submitted to and approved by the ARCHITECTURAL COMMITTEE. If the OWNER should fail to faithfully execute the landscape plan, the ASSOCIATION shall have the right to enter into a contract with a third party for the execution of the landscape plan as approved, and the cost thereof shall be a binding, personal obligation of the OWNER when billed by the ASSOCIATION as well as a lien upon the LOT in question. The lien provided in this Section 5.6 shall have the same enforceability and priority as the lien provided for in ARTICLE XI below.

SECTION 5.7 Colors; Architectural Styles. All exterior building materials and colors must be approved by the ARCHITECTURAL COMMITTEE. Excessively bright colors or objectionably noticeable colors are prohibited. All architecture must be compatible with the "Southern" atmosphere of this planned development and must be compatible with surrounding buildings within the Property.

SECTION 5.8 Exterior Lighting. Exterior lighting plans must be set forth on the architectural or landscape plans for a LOT, and must be approved by the ARCHITECTURAL COMMITTEE. Exterior lighting shall be "low-key" and shall be compatible with lighting used on other residential structures in the development.

ARTICLE VI

CONVENANTS FOR MAINTENANCE

Each OWNER shall keep all LOTS owned by him and all improvements therein or thereon (including wharves, piers or jetties) in good order and repair, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. If, in the opinion of the ASSOCIATION, any owner fails to perform the duties imposed by the preceding sentence after fifteen (15) days' written notice from the ASSOCIATION to the owner to remedy the condition in question, the ASSOCIATION shall have the right, through its agents and employees, to enter upon the LOT in question and to

repair, maintain, repaint and restore the LOT or such improvements and the cost thereof shall be a binding, personal obligation of such owner when billed by the ASSOCIATION as well as a lien (enforceable in the same manner as provided in ARTICLE XI below) upon the LOT in question. The lien provided in this SECTION shall have the same enforceability and priority as the lien provided for in ARTICLE XI below.

ARTICLE VII

GENERAL COVENANTS AND RESTRICTIONS

SECTION 7.1 General Prohibitions. Without the prior written approval of the ARCHITECTURAL COMMITTEE:

SECTION 7.1.1 No previously approved structure shall be used for any purpose other than that for which it was originally designed.

SECTION 7.1.2 No LOT shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise.

SECTION 7.1.3 Except as provided herein, to the extent of the interest of the owner of a LOT, no facilities, including poles and wires, for the transmission of electricity, television cable or telephone messages and the like shall be placed or maintained above the surface of the ground of any LOT (excluding easement).

SECTION 7.1.4 No boat, boat trailer, house trailer, trailer, motor home or any similar items shall be stored in the open on any LOT for a period of time in excess of forty-eight (48) hours unless such item is not visible from any property owner's access area or any public street; provided, however, boats may be kept in, on, or around wharves or piers in accordance with Article IX below.

SECTION 7.2 Permitted Uses and Structures. All LOTS in the Property and each and every one thereof are hereby declared to be residential LOTS, and no LOT shall be used except for single-family residential purposes. No building or structure shall be erected, altered, placed or permitted to remain on any LOT other than a single-family dwelling, not to exceed two- and one-half stories and forty-five (45) feet in height (except that an attic or a basement floor under the ground surface shall not be considered a story for this purpose), and a private enclosed garage for not more than four (4) automobiles.

SECTION 7.3 Minimum Dwelling Area. The ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, shall contain not less than One Thousand Eight Hundred (1,800) square feet in the case of a one-story building or structure; or not less than One Thousand One Hundred (1,100) square feet in the case of anything greater; with a total minimum square footage for the main building or structure of One Thousand Eight Hundred (1,800) square feet; unless otherwise approved in writing by the ARCHITECTURAL COMMITTEE. For the purpose of this SECTION 7.3, a basement floor or other area beneath the ground surface and/or an attic shall not be included in computing the designated minimum square footage. No building, structure, (including piers, jetties, or bulkheads) or residence shall be erected, altered, remodeled, reconstructed or added to without the prior written approval of the ARCHITECTURAL COMMITTEE.

SECTION 7.4 Minimum Building Setback Lines. The Front Setback line shall be set at 30' (thirty) from the front property line. The side setback line for all Parcels shall be set at 10 (ten) feet. The rear setback line shall be set 5' from the wetlands line as determined by the Corps of Engineers. No building, structure or residence located on any of the LOTS shall be erected, altered, remodeled, constructed or added to so long as to be located any nearer to a LOT line than the established setback lines; but the ARCHITECTURAL COMMITTEE shall within its sole discretion have the power to grant exceptions. But at no time shall any setback lines be less than Baldwin County Zoning Regulations.

SECTION 7.5 Preservation of Trees. No tree having a diameter of three (3) inches or more (measured from a point four feet above ground level) shall be removed from any LOT without the express written authorization of the ARCHITECTURAL COMMITTEE. The ARCHITECTURAL COMMITTEE, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the PROPERTY. If it shall deem it appropriate, the ARCHITECTURAL COMMITTEE may mark certain trees,

regardless of size, as not removable without written authorization. In carrying out the provisions of this SECTION 7.5, the DEVELOPER, the ASSOCIATION and the ARCHITECTURAL COMMITTEE and the respective agents of each may come upon any LOT during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions hereof. Neither the ASSOCIATION nor the ARCHITECTURAL COMMITTEE nor DEVELOPER nor their respective agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection.

SECTION 7.6 Permitted Animals. No animals, livestock or other poultry of any kind shall be raised, bred, harbored or kept on any LOT except that the OWNER may keep two domesticated household pets. No such pets shall be kept for any commercial purpose, and any such pets may be kept only so long as they or any of them do not become an annoyance or nuisance to the neighborhood. All pets shall be kept under the close supervision of their owners and shall, at the written request of the ARCHITECTURAL COMMITTEE, be kept behind a fence (see fence requirement).

SECTION 7.7 Signs. No sign or other advertising device of any nature shall be placed upon any LOT except as provided herein. The ARCHITECTURAL COMMITTEE may, in its discretion, adopt and promulgate rules and regulations relating to signs, which may be employed. Signs and other advertising devices may be erected and maintained upon any portion of the PROPERTY, if approved by the ARCHITECTURAL COMMITTEE, as to color, location, nature, size and other characteristics of such signs or devices.

SECTION 7.8 Temporary Structures. No temporary building, trailer, garage or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a residence or temporary housing or the like on any LOT. If approved by the ARCHITECTURAL COMMITTEE, such a structure may be used as a security station during construction or other special purpose.

SECTION 7.9 Accumulation of Refuse. No lumber, metals or bulk materials (except lumber, metals and bulk materials as is usual in the maintenance of a private residence and which must be stored in such a manner so that it cannot be seen from adjacent and surrounding property), refuse or trash shall be kept, stored, or allowed to accumulate on any LOT, except building materials during the course of construction of any approved structure. No harmful or noxious materials shall be stored, either inside any structure, or outside any structure, if said materials pose any significant threat to public health and safety or to individuals employed or living within or in proximity to such structures. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on an day a pick-up is to be made. At all other times, trash and garbage containers shall be screened in such a manner so that they cannot be seen from adjacent and surrounding property, and as approved by the ARCHITECTURAL COMMITTEE. All trash and garbage containers shall be kept in a clean and sanitary condition. The ARCHITECTURAL COMMITTEE, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage and screening of the same on the PROPERTY.

SECTION 7.10 Pipes. To the extent of the interest of the owners of a LOT, no water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any LOT above the surface of the ground, except hoses and movable pipes used for irrigation purposes.

SECTION 7.11 Mineral Operations Prohibited. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind whatsoever shall be permitted upon any LOT, nor shall oil wells, derricks, tanks, tunnels, mineral excavations or shafts by erected or permitted to remain on any LOT.

SECTION 7.12 Fences, Walls, Hedges and Ornamental Structures. No hedge shall be located nearer the front property line of any LOT than the front of the dwelling on such LOT without the written approval of the ARCHITECTURAL COMMITTEE, and no fence, wall, ornamental structure, or gazebo, shall be constructed without the prior written approval of the ARCHITECTURAL COMMITTEE. No chain link or metal fence may be constructed on any LOT. The ASSOCIATION shall have the right to enter upon any LOT and trim or prune, at the expense of the owner, any hedge or other planting which in the opinion of the ASSOCIATION, by reason of its location upon the LOT or the height to which it is permitted to grow, is unreasonable detrimental to the adjoining

property or obscures the view of street traffic or is unattractive in appearance; provided, however, that the owner shall be given fifteen (15) days prior written notice of such action.

SECTION 7.13 Prohibition of Business Activity. No business, profession or home industry shall be conducted in or on any part of a LOT or in any improvement thereon on the PROPERTY without written approval of the ARCHITECTURAL COMMITTEE.

SECTION 7.14 Clothes Lines. No clothing or any other household fabric shall be hung in the open on any LOT and no clothes lines or clothes hanging devices shall be kept or maintained on any LOT unless screened from view by approved shrubbery or fence.

SECTION 7.15 Access. Access to said LOTS shall be over and across the street designated on the plat. During construction of any residence, access to the LOT will be limited to the entrance at the same location as the future driveway.

SECTION 7.16 Machinery. No machinery shall be placed or operated upon any LOT except such machinery as is usual in maintenance of a private residence.

SECTION 7.17 Use Authorized by ARCHITECTURAL COMMITTEE. Notwithstanding other provision herein, the ARCHITECTURAL COMMITTEE may authorize any OWNER with respect to his LOT to:

- A. Temporarily use a single-family dwelling house for more than one family;
- B. Maintain a sign other than as expressly permitted herein;
- C. Locate structures other than the principal dwelling house within setback areas; or
- D. Use structures other than the principal dwelling house for residence purposes on a temporary basis.

SECTION 7.18 Mail or Newspaper Boxes. The design of all mailboxes and newspaper boxes must be approved by the ARCHITECTURAL COMMITTEE and freestanding mailboxes and newspaper boxes equipped with lighting may be required in some or all sections of the PROPERTY.

SECTION 7.19 Nuisance. No obnoxious, offensive or illegal activities shall be carried on upon any LOT nor shall anything be done on any LOT which may be or may become an annoyance or nuisance to the neighborhood.

ARTICLE VIII

WATERFRONT AREAS AND WATERWAYS

SECTION 8.1 Construction Along Water Ways. All LOTS shall be subject to the following additional restrictions:

SECTION 8.1.1 No wharf, bulkhead, or other structure or obstruction shall be built or maintained upon any waterfront into or upon any waterway, wetlands or adjacent thereto without the specific written approval of the ARCHITECTURAL COMMITTEE. Also, no wharf, bulkhead, or other structure shall be constructed into the waterway unless an appropriate governmental permit for such construction has been obtained. Under no circumstances shall any filling of the wetlands directly adjacent to Fish River be allowed.

SECTION 8.1.2 Except with prior written approval of the ASSOCIATION, no boat canal shall be constructed upon any LOT or shall any facility or device be constructed or installed upon any LOT which shall in any way alter the course of or natural boundaries of any waterway or which shall involve or result in the removal of water from any waterway.

SECTION 8.1.3 The OWNER of each LOT adjoining Fish River may construct and maintain a wharf or pier into Fish River which shall not exceed two (2) story's at its wharf house and shall not serve as the dock or boathouse for more than two (2) boats. Said dock or boathouse may contain up to two (2) boat lifts. Any such wharf must be constructed so that no part thereof shall encroach a line that is ten feet (10') from an extension of the side LOT lines of said LOT. No television antenna, satellite dish, or similar type apparatus or equipment shall be located on a wharf. No boat in excess of twenty-five feet (25') in length overall shall be docked or moored unless the

ARCHITECTURAL COMMITTEE shall grant a variance for good cause shown. No lights shall be installed on any wharf with any switching mechanism (whether light sensitive, time actuated, or otherwise) which operates to turn such lights on at a predictable time of day, and no lights will be continuously operated on any wharf throughout the hours of darkness unless approved by the ARCHITECTURAL COMMITTEE.

SECTION 8.1.4 No vegetation in the wetlands or on the waters edge shall be removed without written permission of the ARCHITECTURAL COMMITTEE.

ARTICLE IX

MEMBERSHIP AND VOTING RIGHTS

SECTION 9.1 The Association. The operation and administration of the PROPERTY shall be by the ASSOCIATION or LOT OWNERS. The ASSOCIATION shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or non-exercise of its powers. The ASSOCIATION shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of LOT OWNERS of the PROPERTY with reference any and all matters in which all of the LOT OWNERS have a common interest. The ASSOCIATION shall have all the powers and duties granted to or imposed on it under these covenants and under this DECLARATION as they may be amended from time to time. The ASSOCIATION is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other person or persons. The ASSOCIATION shall have the right to grant permits, licenses and easements over the EASEMENT for utilities, and other purposes reasonably necessary or useful for the proper maintenance or operation of the PROPERTY. The BOARD shall have the authority and duty to levy and enforce the collection of general and specific assessments for EXPENSES to maintain the EASEMENT and is further authorized to provide adequate remedies for failure to pay such assessments.

SECTION 9.2 Membership. Each LOT OWNER shall be a member of the ASSOCIATION so long as he is a LOT OWNER. A LOT OWNER'S membership shall immediately terminate when he ceases to be a LOT OWNER. The membership of a LOT OWNER cannot be assigned or transferred in any manner except as an appurtenance to his LOT.

SECTION 9.3 Voting. Each LOT shall be entitled to one (1) vote, which vote is not divisible. The vote shall be cast by the LOT OWNER in the manner provided for herein and in the By-Laws. Provided, however, that until four (4) months after the DEVELOPER has completed and sold three (3) of the LOTS of the PROPERTY, or until the DEVELOPER elects to terminate DEVELOPER'S control of the ASSOCIATION, whichever shall first occur, the By-Laws and rules adopted by the DEVELOPER shall govern and there shall be no meeting of the MEMBERS of the ASSOCIATION, unless a meeting is called by the BOARD OF DIRECTORS of the ASSOCIATION, and neither the LOT OWNERS nor the ASSOCIATION, nor the use of the PROPERTY by LOT occupants shall interfere with the completion of the contemplated improvements and the sale of the LOTS, and the control of the ARCHITECTURAL COMMITTEE shall remain with the DEVELOPER. The DEVELOPER may make such use of the unsold LOTS and of the EASEMENT and its facilities as may facilitate such completion and sale, including, but not limited to, showing of the property and the display of signs.

SECTION 9.4 Contracts. The ASSOCIATION shall not be bound, either directly or indirectly, to any professional management contracts or leases entered into prior to passage of control unless there is a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time after transfer of control, with not more than ninety (90) days notice to the other party.

SECTION 9.5 Assignment. The share of a MEMBER and the funds and assets of the ASSOCIATION cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his LOT.

SECTION 9.6 Board of Directors. The affairs of the ASSOCIATION shall be conducted by a BOARD OF DIRECTORS which shall consist of such number not less than three (3) nor more than five (5) as shall, from time to time, be determined and fixed by a majority of the voting rights present at any annual meeting of the MEMBERS.

SECTION 9.7 By-Laws. The ASSOCIATION and its MEMBERS shall be governed by the By-Laws, which shall be adopted by the MEMBERS.

SECTION 9.8 Availability of Records. The ASSOCIATION shall make available to LOT OWNERS, prospective purchasers, first mortgagees and insurers of first mortgagees of any LOT, current copies of this DECLARATION, By-Laws, Rules and Regulations and other books, records, financial statements and the most recent annual audited or un-audited financial statement of the ASSOCIATION, if such audited or un-audited financial statement is prepared. "Available" shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

ARTICLE XI

AMENDMENT

This DECLARATION shall be amended in the following manner:

SECTION 11.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the ASSOCIATION at which a proposed amendment is to be considered.

SECTION 11.2 Resolution. An amendment may be proposed by either a majority of the BOARD OF DIRECTORS or by MEMBERS holding one-third (1/3) of the votes of the ASSOCIATION. A resolution adopting a proposed amendment must be adopted by an affirmative vote of not less than a majority of the BOARD OF DIRECTORS and the consent of the OWNERS of at least two (2) LOTS and the approval of three-fourths (3/4) of the OWNERS of first MORTGAGES on LOTS; provided, however, that until four (4) months after the DEVELOPER has completed and sold three (3) LOTS or until the DEVELOPER elects to terminate DEVELOPER'S control of the ASSOCIATION, whichever shall first occur, no amendment may be made unless DEVELOPER shall join in the execution of such amendment, nor shall any amendment make any change that would in any way affect the rights, privileges or powers of the DEVELOPER unless the DEVELOPER shall join in the execution thereof.

SECTION 11.3 Recording. A copy of each amendment shall be certified by the President and Secretary of the ASSOCIATION as having been duly adopted and shall be effective when recorded in the office of the Judge of Probate of Baldwin county, Alabama.

SECTION 11.4 Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all record owners, including all first mortgages of LOTS in the PROPERTY in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the office of the Judge of Probate of Baldwin County, Alabama. If any provision or provisions of this DECLARATION, or any section, sentence, clause, phrase or word herein, or the application thereof, is in any circumstances held invalid, the validity of the remainder of this DECLARATION and the application thereof shall not be affected thereby.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1 Unrestrictive Right of Transfer. The right of a LOT OWNER to sell, transfer or otherwise convey his LOT shall not be subject to any right of first refusal or a similar restriction.

SECTION 12.2 No Restrictions on Mortgaging. Anything construed in any of the PROPERTY DOCUMENTS to the contrary, there shall be no restrictions on a LOT OWNER'S right to mortgage his LOT.

SECTION 12.3 Lender's Notices. Upon written request to the ASSOCIATION, identifying the name and address of the holder, insurer or guarantor and the LOT number or address, any MORTGAGE holder, insurer, or guarantor will be entitled to timely written notice of:

- A. Any condemnation or casualty loss that affects either a material portion of the project or the LOT securing its MORTGAGE.
- B. Any 60-day delinquency in the payment of assessments or charges owed by the OWNER of any LOT on which it holds the MORTGAGE.
- C. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the ASSOCIATION.
- D. Any proposed action that requires the consent or a specified percentage of MORTGAGE holders.

SECTION 12.4 Grantee's Acceptance. The grantee of any LOT subject to the coverage of this DECLARATION, by acceptance of the DEED or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from DEVELOPER or a subsequent OWNER of such LOT, shall accept such DEED or other contract upon and subject to each and all of the terms and conditions set out in this DECLARATION.

SECTION 12.5 Indemnity for Damages. Each and every LOT OWNER and future LOT OWNER, in accepting and DEED or contract for and LOT subject to this DECLARATION, agrees to indemnify DEVELOPER for any damage caused by such OWNER, or the contractor, agent or employees of such OWNER, to private access areas, roads, streets, gutters, walkways or other aspects of private or public ways, including all surfacing thereon or to water, drainage or storm sewer lines or sanitary sewer lines owned by DEVELOPER, or for which DEVELOPER has responsibility, at the time of such damage.

SECTION 12.6 Severability. If any Article, part, clause, provision, or condition of this DECLARATION is held to be void, invalid, or inoperative, such voidness, invalidity, or inoperativeness shall not affect any other Article, clause, provision or condition hereof; but the remainder of this DECLARATION shall be effective as though such Article, clause, provision or conditions had not been contained therein.

SECTION 12.7 Right of DEVELOPER to Modify Restrictions with Respect to Unsold Lots. With respect to any unsold LOT, DEVELOPER may include in any contract or DEED hereinafter made or entered into such modifications and/or additions to this DECLARATION as DEVELOPER in its discretion desires; provided, however, that this DECLARATION may not lessen or extend the voting rights as provided in this DECLARATION or in the Articles of Incorporation and By-laws of the Association.

SECTION 12.8 Captions. The captions preceding the various sections, paragraphs and subparagraphs of this DECLARATION are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision in this DECLARATION. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

SECTION 12.9 Effect of Violation on Mortgage Lien. No violation of any of the terms and conditions of this DECLARATION shall defeat or render invalid the lien of any MORTGAGE or vendor's lien made or reserved in good faith and for value upon any portion of the PROPERTY; provided, however, that any mortgagee or vendor in actual possession, or any purchaser at any mortgagee's or vendor's lien foreclosure sale shall be bound by and subject to this DECLARATION as fully as any other owner of any portion of the PROPERTY.

SECTION 12.10 No Reverter. No provisions of this DECLARATION is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

SECTION 12.11 Duration and Amendment. The provisions contained in this DECLARATION shall run with and bind the PROPERTY, shall inure to the benefit of and shall be enforceable by DEVELOPER, the ASSOCIATION, the ARCHITECTURAL COMMITTEE, and the owner of an LOT included in the PROPERTY, their respective legal representatives, heirs, successors and assigns.

SECTION 12.12 Enforcement. In the event of a violation or breach of any of this DECLARATION or any amendments thereto by any residential owner, or employee, agent, or lessee of such OWNER, the OWNER (S) or LOT (S), the ASSOCIATION, DEVELOPER (so long as it is a member of the ASSOCIATION), their successors and assigns, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of this DECLARATION, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation or said violation or the occurrence of a different violation. Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity.

Any party to a proceeding who succeeds in enforcing this DECLARATION or enjoining the violation of this DECLARATION against a LOT OWNER may be awarded a reasonable attorney's fee against such LOT OWNER.

SECTION 12.13 Certificate of Violation. In addition to any other rights or remedies available to the ASSOCIATION hereunder or at law or equity, the ASSOCIATION shall have the right to file in the records of Baldwin County, Alabama, a Certificate or Notice of Violation of this DECLARATION (which violation shall include, without limitation, nonpayment of the annual charges an/or failure to comply with architectural guidelines) upon failure of a LOT OWNER to correct a violation of this DECLARATION within thirty (30) days after written notice of the violation has been given by the ASSOCIATION to the LOT OWNER.

SECTION 12.14 Interpretation by ASSOCIATION. The ASSOCIATION shall have the right to construe and interpret the provisions of this DECLARATION, and in absence of adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof.

SECTION 12.15 No Waiver. The failure of any party entitled to enforce this DECLARATION shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to ARTICLE II shall be binding on any and all parties as a conclusive determination that such plans are conformity with this DECLARATION.

DEVELOPER:

RICHARD D. BRUNSON
Its: President

DOROTHY L. BRUNSON

My Commission Expires: